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MEMORANDUM

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TO: Docket Control

FROM: Ernest G. Johnson
Director
Utilities Division

DATE: July 22, 2005

RE: STAFF REPORT IN THE MATTER OF THE COMPLAINT OF MOHAVE ELECTRIC COOPERATIVE AGAINST UNISOURCE ENERGY CORPORATION AND APPLICATION OF UNS ELECTRIC, INC. FOR AN ORDER APPROVING A TRANSFER OF A PORTION OF A CERTIFICATE OF CONVENIENCE AND NECESSITY - STIPULATION AND PROPOSED RESOLUTION BY MOHAVE ELECTRIC COOPERATIVE, INC. AND UNS ELECTRIC, INC. (DOCKET NOS. E-01750-04-0798; E-04204A-0798; E-04230A-04-0798; E-04204A-04-0824; AND E-01750A-04-0824)

Attached is the Staff Report addressing the joint filing of Mohave Electric Cooperative ("Mohave" or "MEC") and UNS Electric, Inc. ("UNS") regarding the "Stipulation and Proposed Resolution" ("Resolution") relative to the disputes between the two utilities spelled out in the referenced dockets. Staff supports the Resolution, under which the Certificate of Convenience and Necessity ("CC&N") pertaining to service to Central Trucking, Inc. ("CTI") be reverted to UNS and the CC&N pertaining to service to Nucor remain with Mohave.

Staff recommends that the Commission approve the Resolution jointly proposed by UNS and Mohave to provide electric service to CTI and Nucor and other pertinent existing and future electric load in the two respective CC&Ns in question.

Staff further recommends that Nucor or its successor be provided notice at least six months before the service to Nucor or its successor reverts to UNS from MEC. A copy of this notice should be filed with Docket Control within 30 days after providing notice to Nucor or its successor.

EGJ:PKB:red

Originator: Prem Bahl

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E-04204A-04-0798 and E-04230A-04-0798

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**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

**MOHAVE ELECTRIC COOPERATIVE
and
UNS ELECTRIC, INC.**

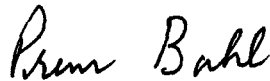
**DOCKET NOS. E-01750A-04-0798, E-04204A-04-0798, E-04230A-04-0798,
E-04204A-04-0824 and E-01750A-04-0824**

**COMPLAINT OF MOHAVE ELECTRIC COOPERATIVE AND
APPLICATION OF UNS ELECTRIC, INC. FOR AN ORDER APPROVING A
TRANSFER OF A PORTION OF A
CERTIFICATE OF CONVENIENCE AND NECESSITY
STIPULATION AND PROPOSED RESOLUTION BY MOHAVE ELECTRIC
COOPERATIVE AND UNS ELECTRIC, INC.**

JULY 22, 2005

STAFF ACKNOWLEDGMENT

The Staff Report for Mohave Electric Cooperative and UNS Electric, Inc. (Docket Nos. E-01750A-04-0798, E-04204A-04-0798, E-04230A-04-0798; E-04204A-04-0824, and E-01750A-04-0824) was the responsibility of the Staff member listed below. Prem Bahl was responsible for Staff's review and analysis.

A handwritten signature in cursive script that reads "Prem Bahl".

Prem Bahl
Utilities Electrical Engineer

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**EXECUTIVE SUMMARY
MOHAVE ELECTRIC COOPERATIVE
and
UNS ELECTRIC, INC.**

**DOCKET NOS. E-01750A-04-0798, E-04204A-04-0798, E-04230A-04-0798,
E-04204A-04-0824 and E-01750A-04-0824**

Utilities Division Staff ("Staff") presents its position in the case of the joint filing by Mohave Electric Cooperative ("Mohave" or "MEC") and UNS Electric, Inc. ("UNS") of "Stipulation and Proposed Resolution" ("Resolution") to the outstanding disputes between the two utilities in the referenced dockets.

Staff has reviewed the direct testimony of Thomas J. Ferry on behalf of UNS in support of the "Stipulation and Proposed Resolution." Based on review of the conditions of the Resolution agreed to by UNS and MEC and the testimony of Mr. Ferry, Staff believes that the Resolution is reasonable and resolves the dispute in an amicable and equitable manner. Staff, therefore, supports the above Resolution under which the CC&N pertaining to service to CTI would be reverted to UNS and the CC&N pertaining to service to Nucor remain with MEC in accordance with the conditions of the Resolution.

Staff recommends that the Commission approve the mutual agreement between UNS and MEC to provide electric service to CTI and Nucor and other pertinent existing and future electric load in the two respective CC&Ns as jointly proposed by both the utilities.

Per the Resolution, the Nucor plant site would be transferred to UNS no later than December 31, 2010. Staff further recommends that Nucor or its successor be provided notice at least six months before the service to Nucor or its successor reverts to UNS from MEC. A copy of this notice should be filed with Docket Control within 30 days after providing notice to Nucore or its successor.

I. Purpose

The purpose of this report is to provide the Utilities Division Staff's (Staff) views on the joint filing by Mohave Electric Cooperative, Inc. ("Mohave" or "MEC") and UNS Electric, Inc. ("UNS")¹ relative to "Stipulation and Resolution" ("Resolution"), which is intended to resolve all the disputes between these two utilities. In addition to reviewing the Resolution, Staff also reviewed the testimony of Thomas J. Ferry filed on behalf of UNS in support of the Resolution.

II. Background

On November 5, 2004, Mohave filed with the Arizona Corporation Commission ("Commission") a Complaint in Docket No. E-04230A-04-0798 ("Complaint Docket") against UniSource Energy Corporation ("UniSource") alleging, among other things, that UniSource refused to provide wholesale service to Mohave under an Open Access Transmission Tariff ("OATT"), and that UniSource refused to negotiate in good faith a system-wide borderline agreement with Mohave. MEC's request to UniSource stemmed from its need to provide electric service to a customer, Central Trucking, Inc. ("CTI") that seeks to construct a building to conduct business in Mohave's certificated service area.

On November 15, 2004, UNS Electric, Inc. ("UNS") filed with the Commission an application in Docket Nos. E-04204A-04-0824 and E-01750A-04-0824 ("Transfer Dockets") seeking to have territory that was previously within the certificated service territory of UNS' predecessor, Citizens Utilities Company ("Citizens"), revert to UNS. MEC currently holds the Certificate of Convenience and Necessity ("CC&N" or "certificate") for the territory that is in dispute and where CTI's property is located, pursuant to Decision No. 58798 (October 14, 1994). UNS contends that Mohave was granted the portion of the service area in question solely for the purpose of serving a specific customer, North Star Steel Company ("North Star"), which is no

¹ UNS is a subsidiary of UniSource that provides electric service in Mohave County. UNS acquired the Certificate of Convenience and Necessity of Citizens' Mohave Electric Division pursuant to Decision No. 66028 (July 3, 2003).

longer in business. (North Star was later bought by an entity by the name of Nucor.) UNS states that because the disputed area was previously served by Citizens, and North Star is no longer in business, the CC&N area in which CTI is located should revert² to UNS as Citizens' successor in interest. UNS denies the material allegations in MEC's Complaint Docket in its Transfer Dockets and asserts that it is willing and able to provide immediate electric service to CTI with facilities that are adjacent to CTI's property.

On January 11, 2005, UNS filed a letter sent to Mohave requesting that Mohave enter into an Electric Service Authorization Agreement that would allow UNS to immediately provide service to CTI, on an interim basis, while the Complaint Docket and Transfer Dockets are pending for Commission decision.

On January 31, 2005, the Commission issued an Emergency Order for Provision of Electric Service ("Emergency Order") (Decision No. 67535). In the Emergency Order, the Commission directed UNS to immediately provide electric service to CTI, on an interim basis, until the issues raised in the Complaint Docket and Transfer Dockets are resolved.

III. Procedural Order

On June 7, 2005, the Commission Administrative Law Judge issued a Procedural Order concerning the aforementioned dockets. Among other matters, the Procedural Order set forth the date, time and place of the next hearing in this case. The Procedural Order further directed Staff to file any Supplemental Staff Report and/or associated exhibits to be presented at the hearing.

² Pursuant to a Letter Agreement dated May 3, 1994, between Citizens (now UNS) and MEC under Tab B of Answer and Motion for Dismissal of the Complaint Docket.

On June 15, 2005, MEC and UNS jointly filed a "Stipulation and Proposed Resolution" to the outstanding disputes between the two utilities in the referenced dockets. The following was filed under the Resolution, signed by the designated attorneys of both utilities on June 15, 2005:

"NOW THEREFORE, Mohave and UNS respectfully request that the Commission enter a Decision and Order in the above-captioned matters:

1. Transferring to UNS Electric, contingent upon UNS Electric's payment to Mohave of \$48,070.00¹ for Mohave installed facilities ("Mohave Facilities"),² that portion of Mohave's CC&N granted pursuant to Decision No. 58798, excepting the portion thereof depicted by Exhibit A³ attached hereto (the "Plant Site");
2. Approving the transfer of the Mohave Facilities to UNS;
3. Transferring, without the need of further order of the Commission, the Plant Site, the earlier of:
 - a. December 31, 2010; or
 - b. On the date specified by Mohave in a written notification to UNS Electric and the Director of Utilities that the customer's electric needs no longer can be met by the existing MEC contractual arrangements; such written notification to be provided not less than six calendar months prior to the date specified in the written notice.
4. Dismissing with prejudice all issues raised in Mohave's Complaint and UNS' Application as they relate to the provision of electric service to the NSS Site. Such dismissal shall have no precedential effect whatsoever beyond the NSS Site."

1 The \$48,070.00 is composed of the \$67,400 in facilities set forth in Exhibit B depreciated on a straight-line basis with a twenty-five (25) year remaining life using a thirty-five (35) year life span.

2 All Mohave Facilities are being transferred "As is", and Mohave shall assign or quit claim all easements and rights-of-way to the extent they contain the Mohave Facilities; provided, however, that the transfer of the Mohave Facilities and related easements and rights-of-way shall not take place and UNS shall have no obligation to pay for the Mohave Facilities unless and until any and all necessary approvals, assignments, and/or releases are received from the Rural Utilities Service (RUS) and any other lienholder in relation to the Mohave Facilities.

3 The parties will provide a legal description for the Plant Site prior to the hearing.

IV. CONCLUSIONS AND RECOMMENDATIONS

Staff has reviewed the direct testimony of Thomas J. Ferry on behalf of UNS in support of the "Stipulation and Proposed Resolution." Based on review of the conditions of the Resolution agreed to by UNS and MEC and the testimony of Mr. Ferry, Staff believes that the Resolution is reasonable and resolves the dispute in an amicable and equitable manner. Staff, therefore, supports the above Resolution under which the CC&N pertaining to service to CTI be reverted to UNS and the CC&N pertaining to service to Nucor remain with MEC in accordance with the conditions of the Resolution.

Staff recommends that the Commission approve the mutual agreement between UNS and MEC to provide electric service to CTI and Nucor and other pertinent existing and future electric load in the two respective CC&Ns as jointly proposed by both the utilities.

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